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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*  
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

March 2, 2016

**VIA ELECTRONIC TRANSMISSION**

Kevin Davis  
Police Commissioner  
Baltimore Police Department  
242 West 29<sup>th</sup> Street  
Baltimore, Maryland 21211

Dear Commissioner Davis:

On November 2, 2008, 16-year-old Annie McCann was found dead next to a dumpster in Baltimore, Maryland, two days after apparently running away from home.<sup>1</sup> Following an autopsy conducted by the Office of the State Medical Examiner, the cause of Annie's death was ruled as "lidocaine intoxication."<sup>2</sup> However, the manner of death was "undetermined."<sup>3</sup> According to the Baltimore Police Department (BPD), Annie committed suicide by drinking a 5-ounce bottle of Bactine, which contains lidocaine and is manufactured by Bayer Corporation.<sup>4</sup>

Yet, in an email obtained by this Committee and dated November 4, 2009, a Bayer employee explained to Annie's parents, "[T]he amount of lidocaine in a single 5[-]ounce bottle [of Bactine] would not be expected to produce death." The Committee has learned that Annie's parents presented BPD with a copy of this email on August 25, 2013. In response, BPD allegedly asked Annie's parents to have Bayer state this opinion on official Bayer letterhead.

This Committee has also learned that Annie's parents have repeatedly requested that BPD provide documentation of the lab results of Annie's rape kit. To date, however, those records have apparently not been produced. In addition, Annie's parents claim that BPD refused to interview a funeral home employee who allegedly observed upon examination of Annie's corpse

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<sup>1</sup> Police Department, Baltimore, Maryland, Criminal Investigation Division, Questionable Death CC#-098-2K00565, Case# 08P392 Final Office Report, [hereinafter "BPD Office Report"] at 1-2.

<sup>2</sup> BPD Office Report, at 3.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*; see also Tom Jackman, "What happened to Annie?" Nov. 2, 2009, *The Washington Post*, available at [http://www.washingtonpost.com/wp-dyn/content/article/2009/11/01/AR2009110102089\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2009/11/01/AR2009110102089_pf.html); Tricia Bishop, "Father says accused teen, companion know nothing of girl's death," Nov. 13, 2009, *The Baltimore Sun*, available at <http://www.baltimoresun.com/news/maryland/baltimore-city/bal-md.mccann13nov13-story.html>; Peter Hermann, "Parents of Annie McCann say new leads in daughter's death," Jan. 18, 2012, *The Baltimore Sun*, available at <http://www.baltimoresun.com/news/maryland/crime/bal-parents-of-dead-virginia-girl-says-news-leads-in-case-20120118-story.html>.

evidence of sodomy. Finally, BPD allegedly began an interview of a key witness in 2013 by stating, "The McCanns just won't face facts, so I have to ask you a few questions."

This Committee, which has jurisdiction and oversight responsibilities over the Justice Department, has also learned that the Federal Bureau of Investigation (FBI) assisted BPD in this investigation and may have provided support for BPD's decision to treat the case as suicide rather than a homicide. Redacted copies of emails exchanged in September 2013 show that the FBI provided a list of recommendations to BPD touching upon various aspects of the case, as well as a document advising BPD on communications strategy with Annie's parents. Accordingly, the Committee is seeking to understand more fully the facts and circumstances surrounding BPD's interactions with the FBI and BPD's decision to treat the case as a suicide.

By March 18, 2016, please provide this Committee with responses to the following:

1. Did BPD consult with any FBI experts concerning the question of whether a single 5-ounce bottle of Bactine contains enough lidocaine that would be expected to cause death upon ingestion? If so, what did the FBI advise? If not, why not?
2. Did BPD consult with Bayer Corporation concerning the question of whether a single 5-ounce bottle of Bactine contains enough lidocaine that would be expected to cause death upon ingestion? If so, what was the response? If not, why not?
3. Did BPD provide the rape kit results to the FBI? If so, when and to whom at the FBI were the results provided?
4. Why has BPD withheld the lab results of the rape kit from Annie's parents? Will you consider providing Annie's parents with a copy of the underlying lab results of Annie's rape kit? If not, why not?

Please number your responses according to their corresponding questions. Should you have any questions, please contact Jay Lim of my Committee staff at (202) 224-5225. Thank you for your immediate attention to this matter.

Sincerely,



Charles E. Grassley  
Chairman  
Senate Judiciary Committee

cc: The Honorable Patrick Leahy  
Ranking Member  
Senate Judiciary Committee